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Remarks

Reconsideration of this application is respectfully requested. Claims 114-117 have been rejected under 35 U.S.C. §103 as being unpatentable over Fries et al., USPN 6,317,885 in view of Schumacher et al., USPN 6,757,907 (used as a teaching of video-on-demand) and Zigmond et al., USPN 7,076,792 (used as a teaching of a protocol file including a TV channel corresponding to the video-on-demand associated with the selection and a size and location of a video layer within a markup language layer).

As readily admitted in the Office Action, Fries et al. fails to disclose a protocol file that includes a TV channel of a selected link and a size and location of a video layer within a markup language layer, resorting to Zigmond et al., col. 2, lines 4-22, col. 3, line 3-col. 4, line 37, col. 5, lines 43-47, and col. 7, lines 45-62.

The problem with the rejection is that Zigmond et al. does not teach what the examiner alleges it does. Specifically, col. 2, lines 4-22 merely teach that HTML tags identifying a *document element* such as a heading or paragraph (i.e., text) can indicate, among other things, "color, size, position, and the size and style of fonts." A HTML page can then be rendered using the tags. Nothing is mentioned in this portion of col. 2 about video, much less the specific information recited in Claim 114.

Columns 3 and 4 appear to teach that a partially transparent text or graphic page can be overlaid in its entirety on an entire background video image page. There appears to be no mention of any portion within a page being dedicated to video, much less then is there any need to supply a protocol file that includes a TV channel of a selected link and a size and location of a video layer within a markup language layer as required by Claim 114.

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The relied-upon portion of col. 5 teaches that a tag can include a URL to a TV resource, including "channel number, image width, image height, "full screen" (i.e., ignore width and height), input source, z position, and image transparency." What these attributes appear to refer to is that the standard TV image aspect ratio can be reduced as appropriate for the display or not, but not that a particular place in a markup language page is designated by the "width" and "height", which are nowhere said to be in any relationship with a coordinate system. The gap between the claims and this part of Zigmond et al. thus is laid bare. The relied-upon portion of col. 7 appears to relate only to displaying a TV URI in response to clicking on a link.

Accordingly, even if the references were to be combined, Claim 114 would not result. First, in none of the relied-upon portions of Zigmond et al. is it taught that a protocol file is sent to a TV system. Second, whatever the examiner has in mind as to what in Zigmond et al. is a "protocol file", as discussed above the relied-upon portions simply do not teach anything about a *location* of a video layer within a markup language layer. It appears that the rejections should be withdrawn.

Additionally, Applicant would like to offer the following comments about Fries et al. The only part of Fries et al. that appears to specifically mention links corresponding to a video program, col. 18, lines 6-22, nowhere mentions that the video program is presented within a portion of a markup layer, much less in accordance with the size and location defined by a protocol file, much less still a protocol file that is downloaded in response to selection of a link (Claim 114).

The Office Action lists a number of locations in Fries et al. that allegedly teach a protocol file "that contains meta-data and PSI data for displaying the video program corresponding to the selected link." That is incorrect, as a rigorous reading of Fries et al. demonstrates. In each section cited by the examiner to discuss metadata and PSI data, the section has nothing to do with the video link feature mentioned briefly in

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column 18, but only with conventional web page presentation that forms a large part of the set-top box browser invention of Fries et al. With more specificity:

Col. 2, lines 30-38 discuss injecting video information into TV programming, with the video information representing Web pages, not television VOD as claimed. The meta-data discussed at line 33 thus relates to displaying web pages and only web pages, without any video layers within them. Certainly, no meta-data is said in this section to be downloaded in response to the selection of a link as recited in Claim 114.

Indeed, col. 7, lines 7-52 and col. 8, line 50-col. 11, line 37 make Applicant's point in this regard, because in these sections Fries et al. teaches that the meta-data is read from an API in the STB that evidently is not downloaded "in response to selection of a link", much less a link to a television VOD, but that already resides there. And nowhere do these sections contemplate that anything, much less a "protocol file", indicates a size and location of a video layer in a markup language layer.

Moreover, Applicant's point that the relied-upon meta-data and PSI data are applied by Fries et al. only to conventional web pages is bolstered by col. 19, lines 30-63 and col. 22, line 61-col. 23, line 15 as follows. Col. 19 is explicitly directed to "page Images", line 15; the PSI data is explicitly said to facilitate display of page images, as opposed to television VOD, lines 35-40. Indeed, col. 22, lines 60-65 (titled "Meta-Data") clarify that the meta-data is directed to web page display, and nowhere mentions a video frame within a markup language frame much less defining a size and location of the video frame. Tellingly, the only part of Fries et al. that has been relied on as teaching links as best discerned by Applicant, col. 18, lines 6-23, nowhere mentions protocol files, meta-data, or PSI data, much less a protocol file that contains size and location information pertaining to television VOD layers, much less still one that is downloaded in

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response to selection of a link to a channel (Claim 114). Thus, Fries et al. is devoid of any fair suggestion to combine it with Zigmund et al. and for that matter Schumacher et al. in the way proposed in the rejection.

It appears to be the examiner's contention that "the protocol file is inherently sent to a TV system". This appears to be incorrect. To the extent that the meta-data and PSI data have been relied on as the "protocol file", it is simply not the case that they contain information on anything other than the web pages that are injected into the broadcast stream, for reasons discussed above, and there is thus no apparent reason to send them to a TV. Accordingly, since a missing element must "necessarily" be in the prior art to support inherency, MPEP §2112, and the relied-upon "protocol file" has use outside a TV system, it does not necessarily have to be sent to a TV system.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



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